

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

LUIS ALEJANDRO GARZA

VS.

THE UNITED STATES OF  
AMERICA

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CIVIL ACTION NO. B-02-154  
FEDERAL TORT CLAIMS ACT

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**EXHIBIT "1"**

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**UNITED STATES OF AMERICA'S RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

**"Exhibit A'"**- means the letter to Barry R. Benton from Michael D. Hood Regional Counsel for the Federal Bureau of Prisons dated January 25, 2002.

1. Describe the standards which are applicable to supervising inmates at the recreational area at the facility at the time of the incident including:
  - a. Standards for number of guards or supervisory personnel;
  - b. Standards for the location of guards or supervisory personnel;
  - c. Standards pertaining to thirty to forty inmates gathering together in one location in the recreational yard; and,
  - d. Standards of proper procedure once the incident started.

**ANSWER:**

**See Government's Exhibit "3" attached to its response to Plaintiff's Requests for Production of Documents. Also, Defendant intends to file a motion to dismiss pursuant to Rule 12(b)(6) of the FRCP. As such, Defendant objects to providing any additional information because:**

1. **Defendant challenges the Court's jurisdiction over this action, as such providing this information would be unduly burdensome and costly; and**
  2. **Defendant has a reasonable concern that the release of the information may impart confidential security information that could adversely affect prison operations and/or investigative techniques.**
2. How did government employees and supervisors fail to follow the appropriate standards in properly reducing the likelihood or severity of the incident.

**ANSWER:**

**Defendant objects to this interrogatory because it is argumentative and assumes facts not in evidence.**

3. Describe how the incident could have been avoided or the injuries suffered by Plaintiff could have been reduced.

**ANSWER:**

**Defendant objects to this interrogatory because it is argumentative, vague and overly broad.**

4. Identify any agents of Defendant who where reprimanded, sanctioned or criticized for any act or omission related to the incident, describing specifically the nature of the reprimand, sanction or criticism.

*ANSWER:*

**There were no reprimands, sanctions or criticism issued to any of defendant's agents regarding this incident.**

5. Identify all persons whom have made claims, including lawsuits, against the government at the facility which have resulted from similar incidents during the past ten years.

*ANSWER:*

**Defendant disputes that this Court even has jurisdiction over this action. As such, providing this information would be unduly burdensome and costly, and the Defendant therefore objects to providing this information. Defendant's Motion to Dismiss, if not filed by the time Plaintiff's counsel receives this response, will be filed within five days of his receipt of same.**

6. If Defendant believes that Plaintiff in any way caused his own injury, please explain how.

*ANSWER:*

**Defendant reserves its response to the request until such time as its motion to dismiss is ruled upon, and, if necessary, its discovery of the Plaintiff is completed.**

7. Please describe Defendants understanding of the nature of Plaintiff's injuries including the extent and duration of any disability or effects of the that injury.

*ANSWER:*

**See SIS Report previously provided and defendant's health record which is attached as Exhibit 1 to Defendant's response to Requests for Production.**

8. For all experts Defendant intends to call as a witness at trial, please state the following:
  - a. The expert's conclusions and opinions, and,
  - b. The factual and legal bases for those conclusions and opinions.

*ANSWER:*

**No experts have been named at this time.**

9. Please state the legal and factual basis for the Defendant's first affirmative defense that Plaintiff's injuries and damages where caused by a third party and therefore Plaintiff's claims against Defendant should be reduced or barred.

*ANSWER:*

**Defendant objects to this interrogatory. Defendant reserves its response to the request until such time as its motion to dismiss is ruled upon, and, if necessary, its discovery of the Plaintiff is completed.**

10. Please state the legal and factual bases for the Defendant's second affirmative defense that a superseding and/or intervening cause can legally bar Plaintiff's recovery against the United States.

*ANSWER:*

**Defendant objects to this interrogatory. Defendant reserves its response to the request until such time as its motion to dismiss is ruled upon, and, if necessary, its discovery of the Plaintiff is completed.**

11. Please state the legal and factual bases for the Defendant's third affirmative defense that the court lacks subject matter jurisdiction.

*ANSWER:*

**Defendant objects to this interrogatory. Defendant reserves its response to the request until such time as its motion to dismiss is ruled upon, and, if necessary, its discovery of the Plaintiff is completed.**

12. Please state the legal and factual bases for the Defendant's fourth affirmative defense that Plaintiff fails to state a claim upon which relief can be granted.

*ANSWER:*

**Defendant objects to this interrogatory. Defendant reserves its response to the request until such time as its motion to dismiss is ruled upon, and, if necessary, its discovery of the Plaintiff is completed.**